

§ 177. Purchases or grants of lands from Indians

No purchase, grant, lease, or other conveyance of lands, or of any title or claim thereto, from any Indian nation or tribe of Indians, shall be of any validity in law or equity, unless the same be made by treaty or convention entered into pursuant to the Constitution. Every person who, not being employed under the authority of the United States, attempts to negotiate such treaty or convention, directly or indirectly, or to treat with any such nation or tribe of Indians for the title or purchase of any lands by them held or claimed, is liable to a penalty of \$1,000. The agent of any State who may be present at any treaty held with Indians under the authority of the United States, in the presence and with the approbation of the commissioner of the United States appointed to hold the same, may, however, propose to, and adjust with, the Indians the compensation to be made for their claim to lands within such State, which shall be extinguished by treaty.

(R.S. §2116.)

CODIFICATION

R.S. §2116 derived from act June 30, 1834, ch. 161, §12, 4 Stat. 730.

CROSS REFERENCES

Patents to be held in trust, descent and partition, see section 348 of this title.

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in sections 941k, 1724, 1757, 1772c, 1774f of this title.

§ 178. Fees on behalf of Indian parties in contests under public land laws

In contests initiated by or against Indians, to an entry, filing or other claims, under the laws of Congress relating to public lands for any sufficient cause affecting the legality or validity of the entry, filing or claim, the fees to be paid by and on behalf of the Indian party in any case shall be one-half of the fees provided by law in such cases, and said fees shall be paid by the Commissioner of Indian Affairs, with the approval of the Secretary of the Interior, on an account stated by the proper land officers through the Secretary of the Interior or such officer as he may designate.

(Mar. 3, 1893, ch. 209, §1, 27 Stat. 631; 1946 Reorg. Plan No. 3, §403, eff. July 16, 1946, 11 F.R. 7876, 60 Stat. 1100.)

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

“Secretary of the Interior or such officer as he may designate” substituted in text for “Commissioner of the General Land Office” on authority of section 403(d) and (e) of Reorg. Plan No. 3 of 1946, set out in the Appendix to Title 5, which abolished office of Commissioner of General Land Office and transferred functions of General Land Office to Secretary of the Interior or such officers and agencies of Department of the Interior as he may designate.

§ 179. Driving stock to feed on lands

Every person who drives or otherwise conveys any stock of horses, mules, or cattle, to range and feed on any land belonging to any Indian or Indian tribe, without the consent of such tribe, is liable to a penalty of \$1 for each animal of such stock. This section shall not apply to Creek lands.

(R.S. §2117; Mar. 1, 1901, ch. 676, §37, 31 Stat. 871; June 30, 1902, ch. 1323, §17, 32 Stat. 504.)

CODIFICATION

R.S. §2117 derived from act June 30, 1834, ch. 161, §9, 4 Stat. 730.

CROSS REFERENCES

Penalties, recovery of, see section 201 of this title.

§ 180. Settling on or surveying lands belonging to Indians by treaty

Every person who makes a settlement on any lands belonging, secured, or granted by treaty with the United States to any Indian tribe, or surveys or attempts to survey such lands, or to designate any of the boundaries by marking trees, or otherwise, is liable to a penalty of \$1,000. The President may, moreover, take such measures and employ such military force as he may judge necessary to remove any such person from the lands.

(R.S. §2118.)

CODIFICATION

R.S. §2118 derived from act June 30, 1834, ch. 161, §11, 4 Stat. 730.

§ 181. Rights of white men marrying Indian women; tribal property

No white man, not otherwise a member of any tribe of Indians, who may after August 9, 1888, marry an Indian woman, member of any Indian tribe in the United States, or any of its Territories except the Five Civilized Tribes in the Indian Territory, shall by such marriage after August 9, 1888, acquire any right to any tribal property, privilege, or interest whatever to which any member of such tribe is entitled.

(Aug. 9, 1888, ch. 818, §1, 25 Stat. 392.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 182 of this title.

§ 182. Rights of Indian women marrying white men; tribal property

Every Indian woman, member of any such tribe of Indians, who may be married after August 9, 1888, to any citizen of the United States, is hereby declared to become by such marriage a citizen of the United States, with all the rights, privileges, and immunities of any such citizen, being a married woman: *Provided*, That nothing in sections 181 to 183 of this title contained shall impair or in any way affect the right or title of such married woman to any tribal property or any interest therein.

(Aug. 9, 1888, ch. 818, §2, 25 Stat. 392.)

CROSS REFERENCES

Indians born within territorial limits of United States declared citizens but grant of citizenship does

not affect right to tribal property, see section 1401 of Title 8, Aliens and Nationality.

§ 183. Marriage of white men to Indian women; evidence

Whenever the marriage of any white man with any Indian woman, a member of any such tribe of Indians, is required or offered to be proved in any judicial proceeding, evidence of the admission of such fact by the party against whom the proceeding is had, or evidence of general repute, or of cohabitation as married persons, or any other circumstantial or presumptive evidence from which the fact may be inferred, shall be competent.

(Aug. 9, 1888, ch. 818, § 3, 25 Stat. 392.)

SECTION REFERRED TO IN OTHER SECTIONS

This section is referred to in section 181 of this title.

§ 184. Rights of children born of marriages between white men and Indian women

All children born of a marriage solemnized prior to June 7, 1897, between a white man and an Indian woman by blood and not by adoption, where said Indian woman was on that date, or was at the time of her death, recognized by the tribe, shall have the same rights and privileges to the property of the tribe to which the mother belongs, or belonged at the time of her death, by blood, as any other member of the tribe, and no prior Act of Congress shall be construed as to debar such child of such right.

(June 7, 1897, ch. 3, 30 Stat. 90.)

§ 185. Protection of Indians desiring civilized life

Whenever any Indian, being a member of any band or tribe with whom the Government has or shall have entered into treaty stipulations, being desirous to adopt the habits of civilized life, has had a portion of the lands belonging to his tribe allotted to him in severalty, in pursuance of such treaty stipulations, the agent and superintendent of such tribe shall take such measures, not inconsistent with law, as may be necessary to protect such Indian in the quiet enjoyment of the lands so allotted to him.

(R.S. § 2119.)

CODIFICATION

R.S. § 2119 derived from act June 14, 1862, ch. 101, § 1, 12 Stat. 427.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with certain exceptions, to Secretary of the Interior, with power to delegate, see Reorg. Plan No. 3 of 1950, §§ 1, 2, eff. May 24, 1950, 15 F.R. 3174, 64 Stat. 1262, set out in the Appendix to Title 5, Government Organization and Employees.

INDIAN AGENTS

The services of Indian agents have been dispensed with. See note set out under section 64 of this title.

§ 186. Repealed. May 21, 1934, ch. 321, 48 Stat. 787

Section, R.S. § 2120, related to trespassing on lands of civilized Indians.

§ 187. Omitted

CODIFICATION

Section, R.S. § 2121, which directed the Superintendent of Indian Affairs to suspend a trespasser (as described in section 186 of this title) who is the chief or headman of a band or tribe from his office for 3 months and to deprive him of all benefits and emoluments of such office during that time but allowed the Superintendent to restore him to his office sooner if the Superintendent should so decide, was omitted in view of the repeal of section 186 of this title.

§§ 188, 189. Repealed. Oct. 31, 1951, ch. 654, § 1(49), (50), 65 Stat. 703

Section 188, R.S. § 2122, related to sale of buildings belonging to United States. See sections 483 and 484 of Title 40, Public Buildings, Property, and Works.

Section 189, R.S. § 2123, related to sale of lands with buildings. See sections 483 and 484 of Title 40.

§ 190. Sale of plants or tracts not needed for administrative or allotment purposes

Subject to applicable regulations under the Federal Property and Administrative Services Act of 1949, as amended [40 U.S.C. 471 et seq.], the Secretary of the Interior is authorized in his discretion to sell and convey by deed or patent, under such terms and conditions as he may prescribe, at not less than their appraised value, nonreservation Government tracts or plants or tribal administrative plants or reserves, or parts thereof, not exceeding forty acres in area and not exceeding \$2,000 in value, not longer needed for Indian administrative or allotment purposes, and small unallotted tracts not exceeding forty acres, where a sale will serve the tribal interests. All sales made under this section shall be at public auction, to the highest and best bidder.

And the Secretary of the Interior is further authorized, where a tract to be disposed of under this section or any other Act authorizing the disposition of tribal lands requires survey as basis for a deed or patent, to accept from the grantee, in addition to the purchase price, an amount sufficient to cover the survey costs.

The net proceeds of sale of any tribal site, plant, or tract shall be deposited in the Treasury of the United States to the credit of the Indians owning the same, to be disposed of for their benefit in accordance with existing law.

(Apr. 12, 1924, ch. 93, 43 Stat. 93; Oct. 31, 1951, ch. 654, § 2(16), 65 Stat. 707.)

REFERENCES IN TEXT

The Federal Property and Administrative Services Act of 1949, as amended, referred to in text, is act June 30, 1949, ch. 288, 63 Stat. 377, as amended. Provisions of that Act relating to disposal of Government property are classified to chapter 10 (§ 471 et seq.) of Title 40, Public Buildings, Property, and Works. For complete classification of this Act to the Code, see Short Title note set out under section 471 of Title 40, and Tables.

AMENDMENTS

1951—Act Oct. 31, 1951, inserted reference to applicable regulations of Federal Property and Administrative Services Act of 1949, as amended, at beginning of first par., and, in third par., struck out requirement that net proceeds of sales of Government-owned nontribal plants or lands be deposited in Treasury of United States.

TRANSFER OF FUNCTIONS

For transfer of functions of other officers, employees, and agencies of Department of the Interior, with cer-